

Regular Session, 2009

HOUSE BILL NO. 806

BY REPRESENTATIVE KATZ

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BOARDS/COMMISSIONS: Provides relative to fees and background checks by the Board of Nursing Facility Administrators

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(21) and to enact R.S. 37:2501(8), (9), (10), (11), and
3 (12) and 2505.1, relative to the Board of Examiners of Nursing Facility
4 Administrators; to provide for definitions; to authorize the board to obtain criminal
5 history record information; to restrict the release of confidential information; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:2501(8), (9), (10), (11), and (12), 2504(F)(2)(k), (l), and (m), and
9 2505.1 are hereby enacted to read as follows:

10 §2501. Definitions

11 As used in this Chapter, unless otherwise stated, the following terms shall
12 have the respective meanings hereinafter set forth:

13 * * *

14 (8) "Applicant" means an individual who has made application to the board
15 for the issuance or reinstatement of any license, reciprocity request, or any other
16 designation deemed necessary to become a nursing home administrator that the
17 board is authorized by law to issue.

18 (9) "Bureau" means the Louisiana Bureau of Criminal Identification and
19 Information of the office of state police within the Department of Public Safety and
20 Corrections.

(10) "Criminal history record information" means information collected by state or federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision, and release. "Criminal history record information" does not include intelligence gathered for investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

(11) "FBI" means the Federal Bureau of Investigation of the United States Department of Justice.

(12) "Licensure" means any license, permit, certification, or registration that the board is authorized to issue.

* * *

§2505.1. Authorization to obtain criminal history record information

A. In addition to any other requirements established by regulation, the board may require an applicant, as a condition for eligibility for licensure to:

(1) Submit a full set of fingerprints, in a form and manner prescribed by the
board.

(2) Permit the board to request and obtain state and national criminal history
record information on the applicant.

(3) Collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information on the applicant.

B. In accordance with the provisions and procedures prescribed by this Section, the board may request and obtain state and national criminal history record information from the bureau and the FBI relative to any applicant for licensure whose fingerprints the board has obtained, pursuant to this Section, for the purpose of determining the applicant's suitability and eligibility for licensure.

C. Upon request by the board and upon the board's submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the board within sixty days from receipt of any such request. The bureau may charge the board a processing fee pursuant to R.S. 15:587 for conducting and reporting on any such search.

D. Any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. No such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

Section 2. R.S. 44:4.1(B)(21) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

* * *

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

* * *

(21) R.S. 37:74, 86, 90, 147, 691, 763, 763.1, 781, 920.1, 969.1, 1277, 1278, 1285, 1326, ~~1395.1, 1400~~, 1518, 1745.15, 1747, 1806, 2156.1, 2505.1, 3481, 3507.1

* * *

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Katz

HB No. 806

Abstract: Authorizes the Board of Nursing Facility Administrators to request and obtain state and national criminal history record information.

Proposed law provides for definitions and requires the board, in addition to any other requirements established by law or board rules, to require an applicant, as a condition to eligibility for licensure, to submit a full set of fingerprints to permit the board to request and obtain state and national criminal history record information on the applicant. Also authorizes the board to charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information on the applicant.

Proposed law, in accordance with the provisions and procedure prescribed by proposed law, requires the board to request and obtain state and national criminal history record information from the La. Bureau of Criminal Identification and Information of the office of state police within the Dept. of Public Safety and Corrections and the Federal Bureau of Investigation of the U.S. Dept. of Justice relative to any applicant for licensure whose fingerprints the board has obtained pursuant to proposed law for the purpose of determining the applicant's suitability and eligibility for licensure.

Proposed law provides that upon request by the board and upon the board's submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the board within 60 days after receipt of any such request. Authorizes the bureau to charge the board a reasonable processing fee for conducting and reporting on any such search.

Proposed law provides that any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Further provides that no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

Present law (R.S. 44:4.1(B)(21)) contains a list of statutes exempt from public records disclosure. Proposed law adds to this list of exemptions.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(21); Adds R.S. 37:2501(8), (9), (10), (11), and (12) and 2505.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Removes the authority for the board to forward an applicant's fingerprints to the FBI and request a search of national criminal history record information relative to the applicant.

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill.

1. Clarifies the public records exception in proposed law by adding proposed law to the current list of exceptions (R.S. 44:4.1(B)(21)).

House Floor Amendments to the reengrossed bill.

1. Makes technical changes.
2. Removes the provisions that provide for changing the minimum and maximum amount of fees the Board of Examiners of Nursing Facility Administrators may collect.